

### **Remarks/Arguments**

Claims 1-38, 40 and 41 are now pending in this application. Summarizing the February 22, 2008 Office Action (hereinafter the "Action"), Claims 1, 7, 14, 22-24, and 30 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,990,577 to Autry (hereinafter "*Autry*"). Claims 2-6, 15, 16, 24, 25, and 27-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Autry in view of U.S. Patent No. 6,665,813 to Forsman et al. (hereinafter "*Forsman*"). Claims 8-13, 17-21, 26, and 31-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Forsman* further in view of U.S. Patent No. 7,017,040 to Singer et al (hereinafter "*Singer*").

In addition, Claims 38, 40, and 41 are allowed. The applicants express appreciation for this indication of allowable subject matter. As indicated below, the applicants have added new claims 42-44, which recite computer readable storage media that enable computing systems to perform the methods recited in claims 38, 40, and 41. The applicants request favorable consideration of these new claims, as they are based on the allowed claims 38, 40, and 41.

By this amendment, no claims have been cancelled and new claims 42-44 have been added. Claims 24-37 have been amended. Following entry of this amendment, claims 1-38, 40-44 will be pending in the present application. For the reasons set forth below, the applicants respectfully request reconsideration and immediate allowance of this application.

#### **Claim Rejections Under 35 U.S.C. 102(e)**

In the Action, claims 1, 7, 14, 22-24, and 30 were rejected under 35 U.S. C. 102(e) as being anticipated by *Autry*. The applicants respectfully traverse these rejections for the reasons set forth below.

Turning first to the cited reference, *Autry*, this reference pertains generally to updating a BIOS image by replacing a portion of the BIOS image with a portion of another BIOS image. More particularly, in column 2, lines 24-29, *Autry* references a "configuration data region", as reproduced here:

In this manner, as described below, before the upgrade occurs, the existing BIOS image that is stored in the FLASH memory 97 may include a configuration data region, a region that may store, for example, data that indicates various boot options (for example) and other options that are specifically configured for the computer system 10. Thus, if the BIOS is upgraded by simply overwriting the existing BIOS image with a replacement BIOS image, the existing configuration data region (that is part of the existing BIOS image) would be overwritten and significant user involvement may be needed to reconstruct the specific BIOS configuration data for the computer system. However, for purposes of preventing this scenario from occurring, the computer system 10 generally performs a technique 150 (that is depicted in FIG. 2) to upgrade the system's BIOS. As described below, in the technique 150, the computer system 10 takes measures to preserve data from the configuration data region of the existing BIOS image and use this preserved data as the configuration data for the replacement BIOS image.

In addition, in column 2, lines 60 through column 3, line 3, *Autry* provides as follows:

60 writes the existing configuration data. Otherwise, if the computer system 10 determines (diamond 153) that compatibility exists, the computer system 10 replaces (block 154) the configuration data in the configuration region of the replacement BIOS image with the data from the configuration data region of the existing BIOS image. This replacement occurs in the system memory 88. Subsequently, the computer system 10 writes (block 156) the modified replacement BIOS image from the system memory 88 to the FLASH memory 97 to overwrite the previously existing BIOS image.

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ment BIOS image from the system memory 88 to the FLASH memory 97 to overwrite the previously existing BIOS image.

FIG. 3 depicts an exemplary embodiment 119 of an existing BIOS image that may be stored in the FLASH

Thus, based at least on the foregoing, one expressly stated goal of *Autry* is to "preserve data from the configuration data region of the existing BIOS image and use this preserved data as the configuration data for the replacement BIOS image." To achieve this goal, *Autry* checks for compatibility between the existing and replacement BIOS images. If this compatibility exists, *Autry* replaces the configuration data in the configuration region of the replacement BIOS image with the data from the configuration data region of the existing BIOS image.

Initially, the applicants express appreciation for the Office's clarifications as shown on Page 12 of the Action, regarding the application of *Autry* to the Applicant's claims. As understood by the applicants, the Action is applying the applicants' recited "non-essential

region" onto *Autry's* replacement "configuration data region", as overwritten in favor of the existing "configuration data region" (assuming the requisite compatibility exists between the existing and replacement BIOS images.

Turning now to the applicants' **independent claim 1**, this claim is reproduced here for ease of reference, with emphasis added to facilitate discussion:

"1. (Previously Presented) A method of *updating a non-essential region stored in a non-volatile memory device in a computer system*, the method comprising:

building an image file, the image file comprising an essential region for storing program code required for booting the computer system and a non-essential region for storing optional program code for the computer system;

copying the image file to the non-volatile memory device in the computer system; and

following copying the image file to the non-volatile memory device in the computer system, *updating only the non-essential region* stored in the non-volatile memory device to update the optional program code for the computer system and *not updating the essential region* stored in the non-volatile memory device."

The applicants respectfully submit that *Autry* does not disclose at least the features emphasized above in the applicants' claim 1. The applicants first submit that the BIOS upgrade process described in *Autry* does not result in "updating a non-essential region stored in a non-volatile memory device in a computer system", as recited in the applicants' claim 1. Instead, one of *Autry's* expressly stated goals is to preserve the contents of its configuration data region when upgrading the BIOS image, and *Autry* achieves this goal by replacing the configuration data region in the replacement BIOS image with the configuration data region from the existing BIOS image. Thus, to the extent that *Autry* can be read to address a "non-essential region", *Autry* teaches preserving such a "non-essential region" when upgrading the BIOS image, rather than updating the "non-essential region".

In addition, the applicants respectfully submit that *Autry* does not disclose "*updating only the non-essential region* stored in the non-volatile memory device to update the optional program code for the computer system and *not updating the essential region* stored in the non-volatile

memory device", as recited in the applicants' claim 1. Continuing the above assumption regarding the application of *Autry's* "configuration data region", the applicants further assume (only for the purposes of these remarks) that the Action is reading the applicants' recited "essential region" onto everything in *Autry's* replacement BIOS image except for the replaced "configuration data region". However, the applicants submit that *Autry* provides for overwriting the previously existing BIOS image when writing the modified replacement BIOS image from the system memory 88 to the FLASH memory 97 (*see, e.g.,* the paragraph bridging columns 2 and 3 in *Autry*). Therefore, it appears to the applicants that *Autry* discloses updating everything in the existing BIOS image, except for the preserved "configuration data region". Assuming that these updated portions of the existing BIOS image are deemed "essential", the applicants submit that *Autry* does not disclose "*updating only the non-essential region* stored in the non-volatile memory device to update the optional program code for the computer system and *not updating the essential region* stored in the non-volatile memory device".

Based at least on the foregoing comments, the applicants submit that *Autry* does not support a § 102 rejection of claim 1. The applicants thus request reconsideration and withdrawal of the stated § 102 rejection of claim 1.

Regarding dependent **claim 7**, this claim depends from claim 1, and stands rejected on similar grounds. Therefore, the comments directed above to claim 1 apply equally to claim 7. In addition, the applicants submit that *Autry* does not disclose the additional features recited in claim 7.

Turning to **independent claim 14**, the features recited in claim 14 are somewhat similar to the features discussed above in claim 1, and it appears that the Office has applied similar portions of *Autry* to claims 1 and 14. Therefore, in the interests of conciseness, the applicants submit that the comments directed above to claim 1 apply equally to claim 14.

Based at least on the foregoing comments, the applicants submit that *Autry* does not support a § 102 rejection of claim 14. For at least the foregoing reasons, the applicants thus request reconsideration and withdrawal of the stated § 102 rejection of claim 14.

Regarding dependent **claims 22-23**, these claims depend from independent claim 14, and stand rejected on similar grounds. Therefore, the comments directed above to claim 14 apply equally to claims 22-23. Further, claims 22-23 recite additional features that *Autry* does not disclose. Based at least on the foregoing comments, the applicants submit that *Autry* does not

support a § 102 rejection of claims 22-23. For at least the foregoing reasons, the applicants request reconsideration and withdrawal of the stated § 102 rejection of claims 22-23.

Turning now to **independent claim 24**, the applicants have amended this claim as indicated above to clarify additional aspects of the description. The applicants submit that the revisions to claim 24 are fully supported by the specification and drawings. In addition to these revisions, the applicants submit that the comments regarding *Autry*, as directed above to independent claims 1 and 14, apply equally to independent claim 24. Based at least on these revisions and comments, the applicants respectfully request reconsideration and withdrawal of the stated rejection of independent claim 24.

Regarding **claim 30**, this claim depends from claim 24, and stands rejected on similar grounds. Therefore, the comments directed above to claim 24 apply equally to claim 30. Further, claim 30 recites additional features that *Autry* does not disclose. Based at least on the foregoing comments, the applicants submit that *Autry* does not support a § 102 rejection of claim 30. For at least the foregoing reasons, the applicants request reconsideration and withdrawal of the stated § 102 rejection of claim 30.

Claim Rejections Under 35 U.S.C. 103(a)

On Page 5 of the Action, claims 2-6, 15-16, 25, and 27-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Autry* in view of *Forsman*. The applicants respectfully traverse these rejections, and submit that *Autry* and *Forsman* do not separately or together teach, suggest, or describe each recitation of these claims, even if combined in the manner suggested by the Office.

Regarding **claims 2-6**, these claims depend from claim 1. Therefore, the above comments directed above to claim 1 apply equally to claims 2-6. Further, claims 2-6 recite additional features that are not shown by *Forsman* or *Autry*. The applicants thus request reconsideration and withdrawal of the stated § 103 rejection of claims 2-6.

Regarding **claims 15-16**, these claims depend from independent claim 14, which was discussed above. Therefore, the above comments directed to claim 14 apply equally to claims 15-16. On at least this basis, the applicants thus request reconsideration and withdrawal of the stated § 103 rejection of claims 15-16.

With respect to **claims 25 and 27-29**, these claims depend from independent claim 24, which was discussed above. Therefore, the above comments directed to claim 24 apply equally to claims 25 and 27-29. On at least this basis, the applicants thus request reconsideration and withdrawal of the stated § 103 rejection of claims 25 and 27-29.

On Page 8 of the Action, claims 8-13, 17-21, 26, and 31-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Autry* in view of *Forsman* and further in view of *Singer*. The applicants respectfully traverse these rejections, and submit that *Autry*, *Forsman*, and *Singer* do not separately or together teach, suggest, or describe each recitation of these claims, even if combined in the manner suggested by the Office.

With respect to **claims 8-13**, these claims depend from claims 1 and 2, which were discussed above. Therefore, the above comments directed to claims 1 and 2 apply equally to claims 8-13. The applicants also agree with the assessment on page 8 of the action that *Autry* and *Forsman* do not teach or disclose the method wherein the one or more non-essential blocks comprise a header. The Office thus cites *Singer* for its teachings related to headers. However, without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* fails to provide the teaching missing from *Autry* and *Forsman* to meet the features of claims 1 and 2, which are incorporated into claims 8-13. On at least this basis, the applicants request reconsideration and withdrawal of the stated § 103 rejections of claims 8-13.

With respect to **claims 17-21**, these claims depend from claims 14 and 15, which were discussed above. Therefore, the above comments directed to claims 14 and 15 apply equally to claims 17-21. The applicants also agree with the assessment on page 9 of the action that *Autry* and *Forsman* do not teach or disclose the computer system wherein the one or more non-essential blocks comprise a header. The Office thus cites *Singer* for its teachings related to headers. However, without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* fails to provide the teaching missing from *Autry* and *Forsman* to meet the features of claims 14 and 15, which are incorporated into claims 17-21. On at least this basis, the applicants request reconsideration and withdrawal of the stated § 103 rejections of claims 17-21.

With respect to **claims 26 and 31-37**, these claims depend from claims 24 and 25, which were discussed above. Therefore, the above comments directed to claims 24 and 25 apply

equally to claims 26 and 31-37. The applicants also agree with the assessment on page 10 of the action that *Autry* and *Forsman* do not teach or disclose the computer-readable medium wherein the one or more non-essential blocks comprise a header. The Office thus cites *Singer* for its teachings related to headers. However, without conceding that *Singer* provides the teaching for which it is cited, the applicants submit that *Singer* fails to provide the teaching missing from *Autry* and *Forsman* to meet the features of claims 24 and 25, which are incorporated into claims 26 and 31-37. On at least this basis, the applicants request reconsideration and withdrawal of the stated § 103 rejections of claims 26 and 31-37.

### **Conclusion**

In view of the foregoing amendment and remarks, the applicants respectfully submit that all of the pending claims in the present application are in condition for allowance. Reconsideration and reexamination of the application and allowance of the claims at an early date is solicited. If the Examiner has any suggestions, questions, or comments concerning this matter, the Examiner is invited to contact the applicants' undersigned attorney at the number below.

Respectfully submitted,

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//Rocco L. Adornato//

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